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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1532

Introduced by Assembly Member John A. Pérez
(Coauthors: Assembly Members Blumenfield, Bonilla, Bradford,
Butler, Carter, Chesbro, Dickinson, *Gordon*, Roger Hernández,
Hill, Bonnie Lowenthal, Monning, Skinner, Wieckowski, *Williams*,
and Yamada)

January 23, 2012

An act to add Part 8 (commencing with Section 38700) to Division 25.5 of the Health and Safety Code, relating to greenhouse gas emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as amended, John A. Pérez. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction ~~Account~~ *Fund*.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations

in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include use of market-based compliance mechanisms. ~~The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.~~ *Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.*

~~This bill would create the Greenhouse Gas Reduction Account within the Greenhouse Gas Reduction Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism to be deposited in this account. The bill also would require those the moneys, upon appropriation by the Legislature, in the Greenhouse Gas Reduction Fund to be used for specified purposes. The bill would require administering agencies, including the state board and any other state agency identified by the Legislature, to allocate those moneys to measures and programs that meet specified criteria. The bill would require the California Environmental Protection Agency to develop a methodology that identifies priority community areas for investment opportunities, as specified.~~ The bill would require the state board to develop, as specified, 3 investment plans that include specified analysis and information, to submit each plan to the budget committees of each house of the Legislature, as specified, and to adopt each investment plan, as specified. The bill would require the Governor to submit a budget to the Legislature that includes specified appropriations consistent with each investment plan and would require the Legislature to consider these appropriations when adopting the Budget Act. The bill would require the state board to submit a report no later than December 1 of each year to the appropriate committees of the Legislature ~~on the status of projects and their outcomes and any changes the state board recommends need to be made to the investment plan containing specified information.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Part 8 (commencing with Section 38700) is added to Division 25.5 of the Health and Safety Code, to read:

PART 8. GREENHOUSE GAS REDUCTION ~~ACCOUNT~~ *FUND*

38700. For purposes of this part, the following terms have the following meanings:

(a) ~~“Account”~~ *“Fund”* means the Greenhouse Gas Reduction ~~Account Fund, created pursuant to Section 16428.8 of the Government Code.~~

(b) *“Qualified recipients”* means public agencies, businesses, nonprofit organizations, academic institutions, public-private partnerships, and workforce training partnerships.

~~38701. (a) The Greenhouse Gas Reduction Account is hereby created within the Greenhouse Gas Reduction Fund.~~

~~(b) Notwithstanding Section 38597, all moneys, excluding penalties and fines, collected pursuant to Part 5 (commencing with Section 38570) shall be deposited in the Greenhouse Gas Reduction Account and shall be available, upon appropriation by the Legislature, to the state board or any state agency for purposes of carrying out this division.~~

38702. (a) The state shall not approve funding for a measure or program using moneys appropriated from the ~~account fund~~ except after determining, based on the available evidence, that the use of those moneys for that measure or program is consistent with the requirements for the use of moneys derived from valid regulatory fees, as established by the California Supreme Court in *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.

(b) It is the intent of the Legislature that ~~funds~~ *moneys* shall be appropriated from the ~~account fund~~ only in a manner consistent with the requirements of this part *and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.*

(c) Moneys shall be used to facilitate the achievement of feasible and cost-effective reductions of greenhouse gas emissions in this state consistent with this division and, where applicable and to the extent feasible, do all of the following:

1 (1) Maximize economic, environmental, and public health
2 benefits to the state.

3 (2) Foster job creation by promoting in-state greenhouse gas
4 emissions reduction projects carried out by California workers and
5 businesses.

6 (3) Complement efforts to improve air quality.

7 (4) Direct investment toward the most disadvantaged
8 communities and households in the state.

9 (5) Provide opportunities for small businesses, schools,
10 affordable housing developers, water agencies, local governments,
11 and other community institutions to participate in and benefit from
12 statewide efforts to reduce greenhouse gas emissions.

13 (6) *Mitigate the impacts and effects of climate change on the*
14 *state's communities, economy, and environment.*

15 (d) ~~Funds~~ ~~Moneys~~ appropriated from the ~~account~~ *fund* may be
16 allocated, consistent with subdivision (a), for the purpose of
17 reducing greenhouse gas emissions in this state through investments
18 that may include, but are not limited to, any of the following:

19 (1) Investments in clean and efficient energy, including, but not
20 limited to, any of the following:

21 (A) Industrial and manufacturing facilities to reduce greenhouse
22 gas emissions by investment in energy efficiency, energy storage,
23 and clean and renewable energy projects.

24 (B) Public universities, schools, water agencies, and other public
25 facilities and fleets *and their energy suppliers* to reduce greenhouse
26 gas emissions by investment in energy and water use efficiency,
27 energy storage, and clean and renewable energy and fuel projects.

28 (C) Single-family and multifamily residential and commercial
29 distributed generation and energy efficiency programs that serve
30 to reduce greenhouse gas emissions, including, but not limited to,
31 the federal Energy Efficiency and Conservation Block Grant
32 Program, established pursuant to Section 542 of the federal Energy
33 Independence and Security Act of 2007 (42 U.S.C. Sec. 17152),
34 *the program established pursuant to Section 25943 of the Public*
35 *Resources Code*, and the Weatherization Assistance Program (42
36 *U.S.C. Sec. 6861 et seq.*).

37 (D) Waste reduction and low-carbon recycled-content processing
38 and manufacturing that serve to reduce greenhouse gas emissions,
39 including market development activities.

(2) Investments in low-carbon transportation, *sustainable development*, and infrastructure, including, but not limited to, any of the following:

(A) Public transportation and sustainable transportation and infrastructure development, *including, but not limited to, transportation, bicycle, and pedestrian facilities*.

(B) Programs for clean vehicles and the advancement of transportation technologies, including, but not limited to, the Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9 of Part 5 of Division 26) and the Air Quality Improvement Program (Article 3 (commencing with Section 44274) of Chapter 8.9 of Part 5 of Division 26).

(C) Advanced transportation and fueling infrastructure.

~~(D) Local and regional sustainable development efforts that are, to the extent applicable, consistent with the sustainable communities strategy or alternative planning strategy adopted and approved pursuant to Section 65080 of the Government Code,~~
such as planning, development, financing, and implementation of multielement transportation infrastructure projects consistent with the implementation of Section 65080 of the Government Code and other greenhouse gas emissions plans, including, but not limited to, transit-oriented residential development consistent with paragraph (4) of subdivision (c).

(E) Low-carbon goods movement and freight vehicle technologies and infrastructure, including, but not limited to, locomotives and heavy-duty ~~trucks~~ *fleets*.

(3) Investments in natural resource protection, including, but not limited to, any of the following:

(A) Natural resource management programs and projects, *including, but not limited to, watershed projects with cobenefits of water quality, flood protection, and coastal and ocean protection*.

~~(B) Land conservation and restoration, habitat restoration, or other stewardship activities, such as projects administered by state conservancies, local conservation corps, and the Wildlife Conservation Board.~~

(C) Development and implementation of sustainable agriculture, forestry, ~~and related water, land, and resource management practices preservation, and open space programs.~~

1 (4) *Investments in community climate innovation programs that*
2 *foster the implementation of projects consistent with paragraphs*
3 *(1), (2), and (3). Eligible applicants shall be cities, counties, cities*
4 *and counties, charter cities, state conservancies, metropolitan*
5 *planning organizations, regional climate authorities, special*
6 *districts, air pollution control and air quality management districts,*
7 *joint powers authorities, regional collaboratives, and nonprofit*
8 *organizations partnering with local governments.*

9 ~~(4)~~

10 (5) Investments in research, development, and deployment of
11 innovative technologies, measures, and practices related to
12 programs and projects funded pursuant to this part.

13 38702.5. *The California Environmental Protection Agency*
14 *shall develop a methodology that identifies priority community*
15 *areas for investment opportunities related to this part. These*
16 *priority community investment areas shall be identified and*
17 *updated no less than every two years, based on geographic,*
18 *socioeconomic, and environmental hazard criteria, which may*
19 *include, but not be limited to, any of the following:*

20 (a) *Areas disproportionately adversely affected by environmental*
21 *pollution and hazards.*

22 (b) *Areas that contain or produce material that, because of its*
23 *quantity, concentration, or physical or chemical characteristics,*
24 *pose a significant hazard to human health and safety.*

25 (c) *Areas with concentrations of people that are of low income,*
26 *high unemployment, low levels of homeownership, high rent*
27 *burden, and low levels of educational attainment.*

28 38703. (a) The state board and any other state agency identified
29 by the Legislature are the administering agencies for moneys
30 appropriated in accordance with this part.

31 (b) (1) The administering agencies shall, upon appropriation
32 by the Legislature, carry out a program to allocate moneys
33 appropriated pursuant to this part through competitive grants,
34 revolving loans, loan guarantees, loans, credit enhancements, or
35 other appropriate funding measures to qualified recipients to reduce
36 greenhouse gas emissions consistent with subdivisions (c) and (d)
37 of Section 38702.

38 (2) *The state board shall develop guidelines for administering*
39 *agencies for purposes of allocating moneys to projects that*

1 *maximize benefits for priority community areas, as described in*
2 *Section 38702.5.*

3 *(3) Administering agencies shall have the authority to set aside*
4 *a percentage of their appropriated moneys from the fund for*
5 *projects that maximize benefits to priority community investment*
6 *areas, as described in Section 38702.5.*

7 *(4) In implementing this subdivision, administering agencies*
8 *shall ensure the investments maximize the benefits described in*
9 *subdivision (c) of Section 38702 for investments to priority*
10 *community investment areas, as described in Section 38702.5,*
11 *through activities that include, but are not limited to, any of the*
12 *following:*

13 *(A) Participatory program guideline development.*

14 *(B) Targeted solicitation outreach.*

15 *(C) Education and training efforts.*

16 *(D) Solicitation scoring criteria priority.*

17 *(c) ~~Prior~~ Notwithstanding Chapter 3.5 (commencing with Section*
18 *11340) of Part 1 of Division 3 of Title 2 of the Government Code*
19 *and prior to the initial allocation of moneys in accordance with*
20 *this part, the state board shall, ~~pursuant to the Administrative~~*
21 *~~Procedure Act (Chapter 3.5 (commencing with Section 11340) of~~*
22 *~~Part 1 of Division 3 of Title 2 of the Government Code)~~ after one*
23 *or more public hearings, adopt guidelines to provide state agencies*
24 *guidance as well as guidance to potential funding applicants and*
25 *the public regarding the allocation and allowable uses of moneys.*
26 *The guidelines shall, at a minimum, do all of the following:*

27 *(1) Establish minimum criteria for receiving funding and*
28 *additional criteria, including, but not limited to, those identified*
29 *in subdivision (c) of Section 38702, that the state agencies shall*
30 *take into account in establishing preferences for awarding moneys.*

31 *(2) Provide a process to verify the qualifications of recipients.*

32 *(3) Provide for the monitoring and, as deemed necessary, the*
33 *audit of expenditures.*

34 *(4) Establish minimum criteria and provide for the tracking of*
35 *outcomes.*

36 *(d) Any state agency that allocates moneys pursuant to*
37 *subdivision (b) shall adopt guidelines that are consistent with the*
38 *guidelines adopted by the state board pursuant to subdivision (c).*

39 *38704. (a) (1) The state board shall develop and adopt,*
40 *beginning April 1, 2013, three investment plans for the following*

1 time periods: 2013 to 2014, 2015 to 2017, and 2018 to 2020. Each
2 investment plan, consistent with the requirements of Section 38702,
3 shall do all of the following:

4 (A) Analyze existing programs and requirements that reduce
5 greenhouse gas emissions and identify gaps in those programs and
6 requirements.

7 (B) Identify, for the specified time period, the anticipated
8 expenditures of moneys appropriated from the ~~account~~ *fund* in
9 accordance with this part.

10 (C) Establish priorities for the allocation of moneys.

11 (D) Identify specific categories of programs and projects.

12 (E) Identify proposed levels of expenditures for each category.

13 (F) Identify the state agencies best qualified to implement the
14 programs pursuant to subdivision (c) of Section 38703.

15 (G) *Maximize benefits to priority community investment areas,*
16 *as described in Section 38702.5, through activities that include,*
17 *but are not limited to, any of the following:*

18 (i) *Participatory program guideline development.*

19 (ii) *Targeted solicitation outreach.*

20 (iii) *Education and training efforts.*

21 (iv) *Solicitation scoring criteria priority.*

22 (v) *Fund set asides.*

23 (H) *Identify the state's near-term and long-term greenhouse*
24 *gas emissions reduction targets by sector, including, but not limited*
25 *to, an analysis of all of the following:*

26 (i) *Current and projected sector greenhouse gas emissions.*

27 (ii) *Progress toward achievement of sector greenhouse gas*
28 *emissions reduction targets.*

29 (iii) *The sectors' greenhouse gas emissions reduction*
30 *achievements as compared to state greenhouse gas emissions*
31 *targets.*

32 (I) *List and describe the key measures and strategies that the*
33 *state is relying on to achieve greenhouse gas emissions reductions*
34 *targets by sector. For each measure and strategy, the state board*
35 *shall include, at a minimum, all of the following:*

36 (i) *A description of expected greenhouse gas emissions*
37 *reductions and other benefits anticipated from the measure's or*
38 *strategy's implementation.*

39 (ii) *Current funding levels and sources for the measure or*
40 *strategy, as applicable.*

1 (iii) *A projection of greenhouse gas emissions reductions and*
2 *other impacts based on continued progress at current*
3 *implementation schedules.*

4 (J) *Analyze gaps, where applicable, in current state strategies*
5 *to meeting the state's greenhouse gas emissions reduction goals*
6 *by sector, including, but not limited to, all of the following:*

7 (i) *Funding.*

8 (ii) *Policies.*

9 (iii) *Compliance.*

10 (iv) *Market preparedness.*

11 (v) *State authority, local authority, or other relevant*
12 *considerations.*

13 (K) *Identify programmatic investments of moneys appropriated*
14 *from the fund that will facilitate the achievement of feasible and*
15 *cost-effective greenhouse gas emissions reductions toward*
16 *achievement of reduction targets by sector, including, but not*
17 *limited to, all of the following:*

18 (i) *The expected greenhouse gas emissions reductions and other*
19 *cobenefits of the investment.*

20 (ii) *The administering agency that will implement the investment.*

21 (iii) *Other relevant information the state board deems*
22 *appropriate to explain and justify the investment pursuant to*
23 *Section 38702.*

24 (2) The Public Utilities Commission shall develop and send to
25 the state board ~~an investment plan~~ *a report* to be included in each
26 investment plan adopted by the state board pursuant to subdivision
27 (a). The Public Utilities Commission's ~~investment plan~~ *report*
28 shall include its requirements on how investor-owned utilities may
29 use any allowance auction moneys the investor-owned utilities
30 might collect pursuant to a market-based compliance mechanism.

31 (b) The state board shall, prior to adopting each investment plan,
32 consult with the Public Utilities Commission to ensure the
33 investment plan is coordinated with, and does not conflict with or
34 unduly overlap with, ~~any expenditure plan~~ *activities under the*
35 *oversight or administration of* the Public Utilities Commission
36 *might adopt pursuant to Part 5 (commencing with Section 38570)*
37 *or other activities under the oversight or administration of the*
38 *Public Utilities Commission that facilitate greenhouse gas*
39 *emissions reductions consistent with this division.*

(c) The state board shall receive input from an advisory body that shall provide information and oversight to the state board to assist in its adoption of each investment plan. The advisory body shall include the secretaries for the Natural Resources Agency, the California Environmental Protection Agency, the Department of Food and Agriculture, *the Labor and Workforce Development Agency*, and the Business, Transportation and Housing Agency. The state board shall hold at least two public workshops in different regions of the state and one public hearing prior to adopting any investment plan. The advisory body shall participate in each public workshop on an investment plan and provide testimony to the state board on each investment plan.

(d) The state board shall submit to the relevant committee of each house of the Legislature with jurisdiction over the state budget, 30 days prior to adoption, each investment plan proposed to be adopted pursuant to subdivision (a) or any amendment to an investment plan adopted pursuant to subdivision (a).

38705. (a) The state board shall annually provide to the Governor, concurrent with the submission required pursuant to Section 13320 of the Government Code, a plan consistent with the relevant investment plan adopted pursuant to Section 38704, detailing proposed appropriations from the ~~account~~ fund.

(b) (1) As part of the Governor's annual budget submission to the Legislature, pursuant to subdivision (a) of Section 12 of Article IV of the Constitution, the Governor shall include proposed appropriations consistent with the plan submitted pursuant to subdivision (a).

(2) *If the state board finds in its report to the Legislature, pursuant to Section 38706, that an investment plan made pursuant to Section 38704 did not allocate at least 25 percent of the available moneys from the prior fiscal year to projects that provide benefits described in subdivision (c) of Section 38702 to priority community investment areas, as described in Section 38702.5, then the Governor shall include as part of the Governor's annual budget submission to the Legislature, pursuant to subdivision (a) of Section 12 of Article IV of the Constitution, allocations to administering agencies to make investments in eligible projects in priority community investment areas in an amount equal to the difference between the total investments in the prior fiscal year that benefited priority community investment areas and an amount equal to 25*

1 *percent of the total allocations from the prior fiscal year. This*
2 *allocation shall not be considered part of the next fiscal year's*
3 *priority community investment area considerations for purposes*
4 *of this part and shall be separately identified in the Governor's*
5 *annual budget submission to the Legislature to provide*
6 *transparency to the investment.*

7 (c) The Legislature shall consider adopting the appropriations
8 submitted by the Governor pursuant to subdivision (b) as part of
9 the annual Budget Act.

10 38706. (a) Notwithstanding Section 10231.5 of the
11 Government Code, the state board shall submit a report on or before
12 December 1 of each year to the appropriate committees of the
13 Legislature on the status of projects and their outcomes ~~and~~, any
14 changes the state board recommends to the investment plan
15 completed pursuant to Section 38705, *and a description of how*
16 *agencies have maximized the benefits of the investments to priority*
17 *community investment areas, as described in Section 38702.5,*
18 *including, but not limited to, the percentage of funds allocated to*
19 *date and in the prior fiscal year that have been invested in projects*
20 *in priority community investment areas and that have provided*
21 *benefits, as defined in subdivision (c) of Section 38702, to priority*
22 *community investment areas.* It is the intent of the Legislature that
23 the appropriations required for the implementation of these changes
24 to the three-year investment plan shall be included in the annual
25 Budget Act for the subsequent fiscal year.

26 (b) A report submitted pursuant to subdivision (a) shall be
27 submitted in compliance with Section 9795 of the Government
28 Code.